

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

JOSE M. HOLGUIN

Plaintiff,

vs.

**STATE FARM LLOYDS
AND RICARDO ALVARADO**

Defendants

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CIVIL ACTION NO.

5:16-cv-350

JURY REQUESTED

STATE FARM LLOYDS' NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

State Farm Lloyds ("State Farm") files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and respectfully shows the following:

Procedural Background

1. On October 5, 2016, Jose M. Holguin ("Plaintiff") filed his Original Petition ("Complaint") and initiated an action styled Cause No. 2016CVF002577-D3; *Jose M. Holguin v. State Farm Lloyds and Ricardo Alvarado* in the 341st Judicial District Court of Webb County, Texas ("the State Court Action"). A copy of the Complaint is included with the *Index of State Court Papers* attached as Exhibit A hereto, incorporated herein, and made a part hereof for all purposes.

2. This Notice of Removal is filed by State Farm Lloyds within thirty (30) days after the date on which State Farm Lloyds was served with Plaintiffs Original Petition and citation. It is therefore timely under 28 U.S.C. § 1446(b).

Nature of the Suit

3. This lawsuit involves a dispute over the processing and payment of insurance benefits on a claim made by Plaintiff on his homeowner's policy issued by State Farm Lloyds for damage allegedly caused by a storm that occurred on or about April 27, 2015. Plaintiff alleges that State Farm breached the insurance agreement, breached the common-law duty of good faith and fair dealing, violated provisions of the Texas Insurance Code, and did such knowingly.

4. State Farm now removes this case, showing that this Court has original jurisdiction over the matters made the basis of this lawsuit pursuant to 28 U.S.C. § 1332 in that (1) the Plaintiff is a Texas citizen; (2) the Plaintiff is completely diverse from State Farm, and; (3) the requisite amount in controversy has been satisfied.

Basis for Removal

A. Diversity of Citizenship

5. Plaintiff was, at the time this action commenced, and is still a citizen of the State of Texas.

6. At the time of filing of the lawsuit in state court and at the time of filing of this Notice of Removal, State Farm was and is an unincorporated insurance association whose underwriters were and are all citizens of states other than Texas. Accordingly, State Farm is not a citizen of the State of Texas for purposes of federal diversity jurisdiction. See, *e.g.*, *Garza v. State Farm Lloyds*, 2013 WL 3439851 at *2 (S.D. Tex. July 8, 2013) (“Therefore, the Court finds that State Farm has sufficiently demonstrated by a preponderance of the evidence that its underwriters are not citizens of Texas. This means State Farm and the Plaintiff are completely diverse.”); *Cronin v. State Farm Lloyds*, 2008 WL 4649653 at *2 (S.D. Tex. October 10, 2008) (citizenship of State Farm Lloyds diverse from that of Texas plaintiffs); *Alonzo v. State Farm*

Lloyds, 2006 WL 1677767, at *1 (W.D. Tex. June 12, 2006) (same); *Caballero v. State Farm Lloyds*, 2003 WL 23109217, at *1 (S.D. Tex. October 31, 2003) (same); *Rappaport v. State Farm Lloyds*, 1998 WL 249211, at *2 (N.D. Tex. May 8, 1998) (same).

7. Defendant Ricardo Alvarado has not been served, but is a citizen and resident of the state of Ohio. Counsel for State Farm contacted Mr. Alvarado and he has consented to this Removal.

B. Amount in Controversy

8. Moreover, this Court has diversity jurisdiction over this matter because the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. The Plaintiff's Original Petition alleges in paragraph XIII that the Plaintiff is seeking monetary relief, "the maximum of which is over \$100,000.00 but not more than \$200,000.00."

The Removal is Procedurally Correct

9. Defendant State Farm filed this Notice of Removal within the 30-day time period required by 28 U.S.C. §1446(b). *See Hornbuckle v. State Farm Lloyds*, 2003 WL 21955864 (N.D. Tex); *Infax, supra*; *Delaney v. Viking Freight, Inc.*, 41 F.Supp.2d 672 (E.D. Tex. 1999).

10. Venue is proper in this district under 28 U.S.C. §1446(a), because this district and division embrace the place in which the removed action has been pending and because a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this district.

11. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice as Exhibit A. Attached as Exhibit B hereto is a List of Parties and Counsel relating to this action; and attached as Exhibit C hereto is an Index of Matters Being Filed in this action.

12. Pursuant to 28 U.S.C. §1446(d), promptly after Defendant files this Notice, written notice of the filing will be given to Plaintiff, the adverse party.

13. Pursuant to 28 U.S.C. §1446(d), a true and correct copy of Defendant's Notice of Removal will be filed with the Clerk of the 341st Judicial District Court, Webb County, Texas, promptly after Defendant files this Notice.

WHEREFORE, DEFENDANT requests that this action be removed from the 341st Judicial District Court, Webb County, Texas, to the United States District Court for the Southern District of Texas, Laredo Division, and that this Court enter such further orders as may be necessary and appropriate.

Respectfully submitted,

JONES, ANDREWS & ORTIZ, P.C.

By: /s/ Daniel C. Andrews
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**COUNSEL FOR DEFENDANT,
STATE FARM LLOYDS**

CERTIFICATE OF SERVICE

On December 7, 2016, the foregoing document was served in compliance with the Federal Rules of Civil Procedure by mail, hand delivery, telecopier transmission, or CM/ECF electronic notice to the following:

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By: /s/ Daniel C. Andrews
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